

1 Patricia C. Barbera
2 24 Caribe Isle,
3 Novato, Ca. 94949
4 Tele: (415) 382-9617
5 Fax: (415) 382-0756

6 In Pro Per

7
8 UNITED STATES DISTRICT COURT

9
10 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

11 PATRICIA C. BARBERA,

12 Plaintiff,

13 v.

14
15 WMC MORTGAGE CORPORATION
16 Defendant,

17
18 CAL LAND TITLE COMPANY OF MARIN,

19 Defendant,

20
21 SELECT PORTFOLIO SERVICING, INC

22 Defendant.
23
24
25

CASE NO. CV 08-2677 SBA
[Vacate and Remand to Superior Court of
California, County of Marin, Case No.
CV 081763]

PLAINTIFF'S DECLARATION OF
SUPPORT OF JUDICIAL
NOTICE OF ADMINISTRATIVE
MOTION TO SHORTEN THE
TIME OF THE HEARING TO
STRIKE FRAUDULENT
DOCUMENTS AND TO VACATE
THIS CASE AND REMAND IT TO
THE STATE COURT FROM WHICH
IT CAME.

BY FAX

26 Declaration in Support of Request for Judicial Notice of the Administrative Motion to Shorten
27 the Time of the Hearing to Strike Fraudulent Documents and to Vacate this Case and Remand
28 it to the State Court From Which it Came.

1
2
3 I, Patricia C. Barbera, hereby declare and say:

4
5 1. I am the Plaintiff in this action. I am 77 years old and disabled. I have been the
6 victim of 'Financial Abuse' for a decade from REED SMITH ETAL and/or their clients

7 2. I have personal knowledge of the facts set forth in this Declaration and, if called
8 upon to do so, I could and would testify competently thereto.

9 3. I submit this declaration in support of the Administrative Motion to Shorten the
10 Time of the Hearing to Strike fraudulent documents; and to Vacate this Case And Remand it to
11 the State Court from Which it Came.

12 4. On 5/28/08 REEDSMITH filed a Notice of Removal from the Superior Court of
13 Marin County. On that date they knew that their client, WMC MORTGAGE *had not answered*
14 *their summons, and were in default.* They also knew that they had *waived their right to*
15 *litigate in this case.* Nevertheless, they issued voluminous documents, pleadings and filings
16 which were replete with *Contempt of Court, Perjury, and Conspiracy* violations.

17 5. On May 30, 2008. I personally reviewed the Marin County Superior Court files
18 in this action. This review disclosed that WMC MORTGAGE had failed to Answer Their
19 Summons. I realized that **THEY WERE IN DEFAULT.**

20 6. On that date I e-mailed My Objections to the Removal, on two causes, to Rivas
21 which He denied.

22 7. On June 3, 2008, I again e-mailed Rivas a detailed objection on the cause that
23 They were in default and suggested that He might dismiss the case, to which He shouted, said
24 that I was threatening Him and disparaged Me.

25
26 Declaration in Support of Request for Judicial Notice of the Administrative Motion to Shorten
27 the Time of the Hearing to Strike Fraudulent Documents and to Vacate this Case and Remand
28 it to the State Court From Which it Came.

FILED

MAY 23 2008

KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
Ej. S. Bond, Deputy

Patricia C. Barbera
24 Caribe Isle
Novato, CA 94949
In Pro Per
Phone: (415) 382-9617
Fax: (415) 382-0756

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

UNLIMITED CIVIL JURISDICTION

PATRICIA C. BARBERA,

CASE NO. CV 081763

Plaintiff,

**ADD CAUSE OF ACTION TO SEEK
INJUNCTIVE RELIEF.**

vs.

**TEMPORARY RESTRAINING
ORDER, SPECIFIC
PERFORMANCE ORDER and
PRELIMINARY INJUNCTION**

**WMC MORTGAGE CORPORATION,
a California Corporation; aka WMC Direct,
a California Business Entity, GE
Consumer Finance, a unit of General
Electric Company; Select Portfolio
Servicing Corp, a Utah Corporation,
Fairbanks Holding Corporation, a
Delaware Corporation; California
Land Title Company Of Marin, a
California Business entity;**

Does 1 thru 100, inclusive.

Defendants.

///

1 matter, and having moved ex parte for a Temporary Restraining Order and preliminary
2 Injunction, and the Court having considered the complaint, declarations, exhibits, and
3 memorandum of law filed in support thereof, and now being advised in the premises finds
4 that:

- 5 1. This Court has jurisdiction of the subject matter of this case and there is good
6 cause to believe it will have jurisdiction of all parties hereto;
- 7 2. There is good cause to believe that the defendants have engaged and are likely
8 to engage in acts and practices that violate C.C.C. § 1780 AND TILA 15 U.S.C. §
9 1635 etal and that the Plaintiffs are therefore likely to prevail on the merits of this
10 action;
- 11 3. There is good cause to believe that irreparable harm to the Plaintiff will
12 continue without immediate action by this Court, and that damage will occur from
13 the Continuing Slander Tort Wrongs, and the Harassment of Plaintiff, and their
14 defiance to comply with rescission laws unless said defendants are immediately restrained
15 and enjoined by Order of this Court.
- 16 4. Weighing the equities and considering the likelihood of ultimate success, a
17 temporary restraining order with equitable relief is in the public interest; and
- 18 5. No security is required of the Plaintiffs for the issuance of the restraining
19 order.

20 ORDER

21 1.

22 PROHIBITED BUSINESS ACTIVITIES

23 IT IS THEREFORE ORDERED THAT, In connection with the property of BARBERA
24 which is encumbered by a WMC loan,

- 25 1) the fraudulent accounting activities, harassing or threatening her, the
26 Defendants are hereby temporarily restrained, and
- 27 2) enjoined from: a) in any way interfering with the BARBERA's enjoyment of her
28 Property and b) claiming exorbitant and fraudulent demands: 1) Payoff Statement

1 2) enjoined from: a) in any way interfering with the BARBERA's enjoyment of her
2 Property and b) claiming exorbitant and fraudulent demands: 1) Payoff Statement
3 \$1,214,316.51, 2) Latest Monthly Statement \$237,372.77, 3) Withholding rescission
4 compliance and
5 3) order the restitution of the Defiant Predatory Lender, WMC whereby the lender
6 must comply with the rescission laws to terminate their security interest and
7 execute the deed of reconveyance as mandated in Truth In-lending
8 (Tila), 15 U.S.C.S. § 1635 et Seq and 12 C.F.R. § 226.15 et Seq., which is:
9 A) Executing the Full Deed of Reconveyance and recording it at the Marin
10 County Recorder's office within 24 hours; and
11 B) to confer with Plaintiff to obtain accurate accountings and
12 C) refunding the accurate amount due within one month.

13 11.

14 ORDER TO SHOW CAUSE

15 IT IS FURTHER ORDERED, that Defendants shall appear before this Court on the
16 11 day of JUNE 2008 at 9:00 o'clock a m.,
17 at the Marin County Superior Courthouse, Room B to show cause, if there is any, why
18 this Court should not enter a ~~Further Restraining Order~~, in substantially the form of this
19 order, pending final ruling on the Complaint against Defendants, enjoining from further
20 violation of C.C.C. § 1780 and TILA 15 U.S.C. § 1635 et seq and imposing such additional
21 relief as may be appropriate.

22 111.

23 SERVICE OF ORDER

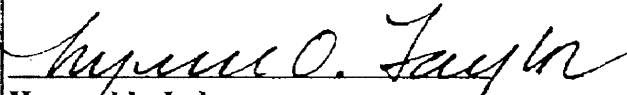
24 IT IS FURTHER ORDERED that copies of this Order may be serviced by any means,
25 including facsimile transmission or electronic mail, upon any entity or person that may be
26 subject to any provision of this order.

27 IV.

28 RETENTION OF JURISDICTION

1 IT IS FURTHER ORDERED that this Court will retain jurisdiction of this matter for all
2 purposes.

3 SO ORDERED, this 23 day of MAY, 2008, at 9:20 m.

4
5 

6 Honorable Judge
7 California Superior Court Judge
8 County of Marin
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28